

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES A. BOYD,

Plaintiffs,

V.

RICHARD MORGAN and RON VAN
BOENING.

Defendants.

No. C09-1784 BHS/KLS

**ORDER DENYING MOTION FOR
CONTINUANCE OF SUMMARY
JUDGMENT MOTIONS**

Before the Court is Plaintiff's motion to continue Plaintiff's motion for summary judgment and Defendants' cross-motion for summary judgment. ECF No. 67. Both motions are presently noted for May 20, 2011. ECF No. 63. In his motion, Plaintiff requests an order directing Defendants to release all of his legal materials and his typewriter. *Id.*, p. 2. He also contends that he cannot properly "supplement the newly compelled documents that this Court ordered ... into [his] supplement response to Defendants' Cross-Motion for Summary Judgment if Plaintiff does not have access to any of his legal materials." *Id.*

PROCEDURAL BACKGROUND

Plaintiff filed his Motion for Summary Judgment on January 24, 2011. ECF Nos. 43-45. On February 11, 2011, Defendants responded and filed a Cross-Motion for Summary Judgment. ECF Nos. 46-48. The Motion for Summary Judgment was originally noted for hearing on March 18, 2001, but was continued by the Court to occur after resolution of Plaintiff's Motion to Compel. ECF No. 55.

ORDER - 1

1 On April 18, 2011, the Court granted Plaintiff's motion to compel, in part, and directed
2 Defendants to provide Plaintiff with copies of EFV action forms for MICC offenders whose
3 initial approval for EFVs occurred between February 27, 2009 and August 3, 2009, with criminal
4 convictions for violent crimes including murder, rape or assault of any kind against adult females
5 or children. ECF No. 63. The Court also directed the Clerk to re-note Plaintiff's motion for
6 summary judgment (ECF No. 43) and Defendants' cross-motion for summary judgment (ECF
7 No. 47) for May 20, 1011. *Id.* The Court did not direct further briefing by the parties on the
8 pending motions. *Id.*

10 On April 19, 2011, Plaintiff filed a motion for immediate injunctive relief, claiming that
11 individuals at the Washington State Reformatory wrongfully transferred and demoted to him
12 close custody in retaliation for pursuing this lawsuit. ECF No. 65. Under separate Report and
13 Recommendation, this Court is recommending that the motion for injunctive relief be denied as
14 the Court has no jurisdiction over the parties named.

16 On April 29, 2011, Plaintiff filed his motion for continuance of the summary judgment
17 motions, in which he states that he "cannot properly supplement the newly compelled documents
18 that this Court Ordered Defendants' to provide into Plaintiff's supplement response to
19 Defendants' Cross-Motion for Summary Judgment if Plaintiff does not have access to any of his
20 legal materials." ECF No. 67, p. 2, ¶4.

21 On May 5, 2011, the Defendants responded to the Court's Order with the Declaration of
22 Elizabeth Weinandt and the EFV forms for seven offenders. ECF No. 68. On

24 On May 16, 2011, Plaintiff signed a Motion to Strike Defendants' Declarations and
25 Supplemental Pleadings. ECF No. 74 (posted in CM/ECF on May 19, 2011). The materials
26

1 produced by Defendants on May 5, 2011 are attached to Plaintiff's motion and he argues that
2 based on the production, certain declarations submitted by Defendants should be stricken. *Id.*

DISCUSSION

As noted by Defendants, Plaintiff initiated this summary judgment litigation over four months ago. Although he complains that he requires access to his legal papers and typewriter, Plaintiff does not explain why this access is required for the pending summary judgment motions. Plaintiff has filed his reply and numerous responses to Defendants' response to his motion for summary judgment and their cross-motion for summary judgment. *See, e.g.*, ECF Nos. 52, 56, 57, 59, 60 and 61. The Court granted Plaintiff's motion to compel, in part, the Defendants timely responded and produced the documents ordered, and the Court granted a continuance of the summary judgment motions. The Court did not direct the parties to file additional pleadings relating to the summary judgment motions. However, Plaintiff has filed a Motion to Strike and Supplemental Pleadings, which incorporates the "newly compelled documents." ECF No. 74. The Court will consider that filing in determining the summary judgment motions.

Accordingly, it is **ORDERED:**

- (1) Plaintiff's Motion for Continuance (ECF No. 67) is **DENIED**.
 - (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

DATED this 16th day of June, 2011.


Karen L. Strombom
Karen L. Strombom
United States Magistrate Judge